IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
ORIGINAL JURISDICTION
Dated: Nainital the 27th April, 2006
Bail Application No. 157 of 2006
Order on the bail application of accused

CRIMINAL SIDE

Meharban S/o Miyan Ahmad
R/o Mohalla – Khalapar
Police Station – Kotwali Muzzafarnagar
District – Muzzafarnagar .....Applicant

Versus

State of Uttaranchal .....Opposite Party

In Case Crime No. 289 of 2004
U/s 363, 366 and 376 I.P.C.
Police Station – Kotwali Roorkee,
District – Haridwar

Hon'ble J. C. S. Rawat, J.

Heard Sri Rajendra Singh-learned counsel for the applicant, learned AGA for the State and perused and perused the record.

The victim is a minor and the Doctor has assessed her age in between 14-15 years. The victim has consistently stated in her statement recorded u/s 161 and 164 Cr.P.C. that the accused committed rape upon her. It was contended on behalf of the applicant that the testimony of the girl cannot be relied upon on the ground that she had implicated another person in the statement recorded u/s Cr.P.C. It was further contended that the medical report does not support the prosecution. This fact that the victim had implicated another person can be good ground for bail for the another accused but not for the present applicant. Even if the another accused is released on bail, the case of the present applicant cannot be considered on the ground of parity. It is a well settled position of law that even if the medical report does not support the factum of rape, the statement of the victim cannot be discarded. There is no ground to disbelieve the statement of the minor girl.

Considering the facts and circumstance of the case in totality, it is not a fit case for bail at this stage.

Accordingly, the bail application is rejected.

(J.C.S. Rawat, J.)

Dated 27.04.2006

Shiv